IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MONTY J. MCALLISTER Petitioner vs. THE STATE OF GEORGIA GWINNETT COUNTY SUPERIOR COURT, GWINNETT DEPARTMENT OF TREASURY, JUDGE TIMOTHY HAMIL, DISTRICT ATTORNEY ALABI ANDREA and GWINNETT COUNTY POLICE DEPARTMENT ET. AL Respondents	28 USC § 2241 HABEAS CORPUS CAFN: ______ FILED IN CLERK'S OFFICE U.S.D.C. - Atlanta MAR - 3 2017 JAMES N. HATTEN, Clerk By: [signature] Deputy Clerk 1:17-CV-0812

WRIT OF HABEAS CORPUS
28 USC § 2241

Comes now Monty Mcallister the Petitioner Pursuant to 28 USC § 2241 under the Provisions Set forth under Morgan v. Thomas 321 F. Supp 565 (1970) and Files this Writ of Habeas Corpus As to The Release of the Illegal Custody and Detention of his Property Currency in the Amount of $3,700.00 with Interest, Penalties and Damages in the Amount of $50,000.00 Dollars. As this Can be Construed As Relief under 42 USC § 1983, the defendants

Moves Pursuant to the All Writs Act 28 USC§ 1651 & 1652 As to Return of his Illegal Seized Property in the Custody and being Illegally Restrained by the Defendants in violation of the Due Process Clause.

STATEMENT OF FACTS

AS STATED IN (DOC # 2) See: Attached filed Docketed Motion in Case 09-B-00719-8, the facts Stated herein are TRUE. A hearing was held January 27, 2017, in the Gwinnett Superior Court (See: DOC#3). On January 27, 2017, the STATE Repersented by District Attorney ANDREA ALABI, Produced No evidence Pursuant to State Law as to Any Legal forfiture by Proceeding by Abandonment OR Consfication. Judge HAMIL under the Guise of Deception Said I was not in the Right Court but Continued to ASK me what I wanted. "The Return OF MY Property with interest, Penalties and Damages." The defendants are now in Illegal Custody and Possession OF MY Property without due Process which is Actionable for Release under 28 USC § 2241.

LEGAL ARGUMENT & GROUNDS FOR Relief

Ground one: Illegal Forfiture without DUE Process.

SUPPORTING FACTS: MY Property has been illegally Seized and Detained in the custody of the defendants without due Process. The Custody or Restraint is Now Confered to envoke Habeas Corpus Relief.

Ground TWO: Deprivation and Illegal Seizure without Due Process.

SUPPORTING FACTS: The Property Now in the Illegal Custody of the Defendants Violates The Rights Guaranteed under the 4th and 14th Amendment to the United States Constitution.

Ground Three: Deprivation of Property by Conspiratorial Means Denial Too Access too the Courts Exhaustion of STATE Remedies

SUPPORTING FACTS: The Defendants have Deprived Me OF MY Property in violation of the 14th Amendment. Now Purposely denying Me Access too the Court Denying Me Governmental Redress and State exhaustive Procedures, Interference by the Defendants by deception and Malfeasance

RELIEF To be Granted

A EVIDentiARY Hearing is ASK to be Granted AS to Release of the Illegal Custody and Detention OF MY Property with Interest, Cost, and Damages in the Amount OF $150,000.00 Dollars.

This 24th dAY OF Feburary 2017

cc: ANDREA ALABI
DISTRICT ATTorneys OFFice
75 Langley Drive
Lawrenceville, GA. 30045

Respectfully Submitted
Monty J. Mcallister

MontY J. Mcallister
COASTAL STATE PRISON
PO. BOX 7150
Garden City, GA. 31418

CERTIFICATE OF SERVICE

I Monty J. Mcallister Declare I have Served the Respondents with A True and Correct Copy of this Writ of Habeas Corpus by US Mail Addressed To:

ANDREA ALABI
DISTRICT ATTORNEY'S OFFICE
75 Langley DRIVE
Lawrenceville, GA. 30045

this 24th day of Feburary 2017.

Monty Mcallister

Monty J. Mcallister Pro-SE

DOC NO#1

&

DOC#2

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

STATE OF GEORGIA VS. MONTY MCALLISTER AKA Micheal D. Radford JR. Defendant	CAFN: 09-B-00719-8 "MOTION"

FILED IN OFFICE
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA
2016 NOV 17 AM 11:19
RICHARD T. ALEXANDER, CLERK

RETURN OF PROPERTY UNDER CONVERSION PURSUANT TO O.C.G.A§ 17-5-54(a)(1)

Comes Now Monty McAllister, the defendant in ProPersonia and Moves this Honorable Court Pursuant to O.C.G.A§ 17-5-54(a)(1), To Return his Property in the Custody of the Gwinnett County Police Department and The State of Georgia. The defendant Support his Motion with the Following Facts To Wit:

STATEMENT OF FACTS

On December 18th 2008, IN The Jurisdiction of Gwinnett County, Georgia the defendant was detained on Pleasent Hill Road by the Gwinnett County Police Department

The defendant was then Arrested After his brief detention and Booked into the Gwinnett County Detention Center on the charges of Ficticious Identification, Giving a False name, Marijuana Possession ect. Because there was an Open Federal Probation Violation hold on the defendant he was held until A hearing was had for transfer of custody. Retrieved from the defendant 3,700.00. After going before the Judge, and released in the custody of the U.S. Marshalls. The Judge ordered the Return of his Property and Currency. The Jail did not Return his Property and Transfered the defendants custody over to the U.S. Marshalls without his Money as ordered by the Judge. The defendant attempted to Retrieve his Money but continues to be Rejected without Due Process.

LEGAL ARGUMENT & CITATION OF AUTHORITY

O.C.G.A § 17-5-54(a)(1) states when law enforcement agency assumes custody of any Personal Property which has been seized once A Final Judgement or disposition is entered the Property of the defendant will be returned to It's Rightful owner. As in the instant Case At hand and by the Transcript his Property was ordered Returned by the Judge January of 2009 and the Case was disposed of and the State diliberately Failed to return his Property upon Transfer of his Custody into Federal Authorities Custody. The State has not Notified the defendant by due Process of Any Forfeture under O.C.G.A § 16-13-49(o) or Given Notice by due Process that his Property is Subject to the Provisions Set Forth Under O.C.G.A § 17-5-54(d). The Defendant is the rightful owner of the currency Illegally Taken and Now in Conversion of the State. See: Lindsey v. Storey 936 F.2d 554, 561 (11th Cir 1991) Balabin v. Scully 606 F.Supp at 182 Conversion suits can be brought under State Court of Claims Act. The defendant Now Seeks the Courts Intervention of the return of his Money before Instituting Civil Actions in The Same Action.

CONCLUSION

The defendant Prays that his Money be returned with undue haste Pursuant to the Provisions OF STATE LAW O.C.G.A§ 17-5-54(a)(1).

This 6th dAY OF SEPTEMBER 2016.

RESPECTFULLY Forwarded

Monty J. McAllister

MONTY J. MCAllister
COASTAL STATE PRISON
PO. BOX 7150
GARDEN CITY, GA. 31418

cc: Samuel S. Olens
ATTORNEY GENERAL
40 CAPITOL SQUARE SW.
ATLANTA, GA. 30334

IN THE SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

2016 NOV 30 PM 3:35

STATE OF GEORGIA	:	CASE NO. 09-B-0719-8
v.	:	
MONTY MCALLISTER a/k/a MICHAEL D. RADFORD, JR.	:	

RULE NISI

Defendant's Motion for Return of Property ($3,700) in the above-styled matter will come before this Court for a hearing at **9:00 A.M.** on the **27th** day of **January, 2017**, in **Courtroom 2-B** of the Gwinnett Justice and Administration Center. Let all interested parties be and appear before this Court on said date to show cause why the relief requested should not be granted.

IT IS SO ORDERED this 29th day of November, 2016.

R. TIMOTHY HAMIL, Judge
Gwinnett Superior Court

Original: Clerk of Court
cc: Ms. Andrea Alabi, Assistant District Attorney
Mr. Anthony Volkodav, Assistant District Attorney
Mr. Ryan Fisher, Assistant District Attorney
Mr. Monty McAllister, Defendant *pro se*
Ms. Pamela Schultz, Legal Assistant
Mr. Adam McCord, Felony Probation

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN AND FOREGOING DOCUMENT(S) HAVE BEEN SERVED UPON THE PARTY(S) BELOW, HAVING BEEN DEPOSITED IN THE UNITED STATES MAIL IN A PROPERLY ADDRESSED ENVELOPE WITH ADEQUATE POSTAGE THEREON, TO:

Gwinnett County State Court
Clerk of Court
75 Langley DR.
Lawrenceville, GA 30045

Samuel S. Olens
Atty. General
40 Capitol Square S.W.
Atlanta, GA 30334

THIS THE 26th DAY OF September, 2016.

Tiffany Butler
NOTARY PUBLIC
Chatham County, GEORGIA
My Comm. Expires
August 10, 2020

Signature: Monty J. McAllister
Print Name: Monty J. McAllister
GDC ID: 1001422597
Address: Coastal State Prison
P.O. Box 7150
Garden City, GA 31418

Sworn to and subscribed to before me this 26 day of September 2016

T Butler
Notary Public

My commission expires: 8/10/2020

Monty McAllister #1001422597
Coastal State Prison
P.O. Box 7150
Garden City, GA 31418

JACKSONVILLE FL 320
14 NOV 2016 PM 2 L

Gwinnett County State Court
Clerk of Court
75 Langley Dr.
Lawrenceville, GA 30045

30045